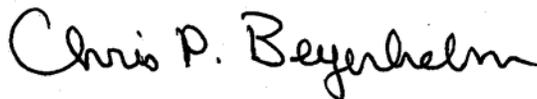


**For:** State and County Offices

**Monitoring the Statute of Limitations (SOL's) on Non-Judgment Debt**

**Approved by:** Acting Deputy Administrator, Farm Loan Programs



**1 Overview**

**A Background**

This notice continues the guidance established in Notice FLP-367 and removes the requirement for Farm Loan Chiefs (FLC's) to submit a quarterly report to the National Office about cases where the 6-year SOL will expire within the next 12 months.

The Government is unable to seek the following:

- deficiency judgments once the 6-year SOL runs
- monies owed on non-judgment FSA debt, beyond the value of any remaining security, once the 10-year SOL runs.

State and County Offices must ensure that all necessary and applicable collection actions are taken **before** SOL's expire to receive the greatest possible recovery of taxpayer dollars.

**B Purpose**

This notice provides guidance to ensure the monitoring of SOL's.

**C Contact**

If there are any questions about this notice:

- County Offices shall contact the State Office
- State Offices shall contact Mary Durkin, LSPMD, at 202-720-1658.

<b>Disposal Date</b>	<b>Distribution</b>
October 1, 2008	State Offices; State Offices relay to County Offices

## Notice FLP-455

### 2 Action

#### A FLC Responsibilities

FLC's are responsible for monitoring delinquent accounts to ensure that all required collection activities occur **before** the expiration of 6-year and 10-year SOL's. In general, **after**:

- six years from the accrual date, FSA may **not** obtain a deficiency judgment against a delinquent borrower but may still pursue collection through offsets
- ten years from the accrual date, the statute bars any collection activity (offsets, administrative wage garnishments, etc.) beyond liquidating the security.

FLC's shall ensure that:

- the 6-year SOL's on delinquent farm loan accounts are monitored
- all cases in which 6-year SOL's have not yet run receive top servicing priority **before** the statute bars judicial collection of a deficiency judgment
- in cases where 6-year SOL's may bar collection of a deficiency but the debtor has repayment ability or other assets, consult with the Regional Office of General Counsel (OGC) to determine if a deficiency judgment can be sought.

**Notes:** Consult with the Regional OGC about whether State law prevents FSA from pursuing offset collection or referring deficiency judgments to the Department of Treasury (Treasury) for the Treasury Offset Program (TOP).

If a deficiency judgment will not be sought, steps should be taken immediately to determine if the account can be classified as CNC and referred to Treasury for cross-servicing.

#### B Farm Loan Manager (FLM) Action

Each FLM shall maintain a list of all delinquent accounts where 6-year SOL's may bar deficiency collection within the next 24 months.

**Note:** In certain situations, the time period remaining under SOL's may be suspended because of other actions that may have prohibited FSA from enforcing collection of the debt such as the debtor filing bankruptcy.

#### C Quarterly Reports

Each quarter, FLM's will send an updated list of cases in subparagraph B to DD's and FLC's.

### 3 Determining When SOL's Begin to Run

#### A Acceleration

In general, when loans are accelerated, SOL's begin to run from the date of acceleration.

#### B Voluntary Liquidation

In some cases the borrower may voluntarily liquidate the security **before** receiving an acceleration letter at the end of the 1951-S loan servicing process. There should be a signed RD 455-3 or RD 455-4 in the borrower's file.

- RD 455-3, item 2, states that "the ... debt is all immediately due and payable upon signing of this form by the borrower and the ... representative". SOL begins to run on the date RD 455-3 is signed.
- RD 455-4, item 8, states that "nothing contained in this agreement shall be construed to release the Debtor or any other party from liability for any deficiency owing to or insured by the Government after application of the proceeds as provided in this agreement. Any such deficiency shall be immediately due and payable". SOL begins to run on the date RD 455-4 is signed.

In cases where borrowers have made payments on the debt after signing RD 455-3 or RD 455-4, consult the Regional OGC to determine the beginning date of SOL's.

#### C Delinquent

When a loan has **not** been accelerated in the 1951-S process or there is no remaining security and the borrower did **not** sign a voluntary liquidation form, SOL generally begins to run on each installment as it comes due. The statute begins to run when the installment is delinquent or past due, such as the day **after** the due date.

#### D Loan Maturity

In some cases, the beginning date for SOL is the date the final payment was due on the loan.

#### E Last Acknowledgement

SOL also runs from the date the borrower acknowledges the debt, such as when the borrower submits a debt settlement application or signs a Farm Business Plan acknowledging the debt.

#### F OGC Guidance

States shall consult with their Regional OGC in cases where the beginning date for SOL's **cannot** be determined.